

MIGUEL MÁRQUEZ, County Counsel (S.B. #184621)
 MELISSA R. KINIYALOCIS, Deputy County Counsel (S.B. #215814)
 OFFICE OF THE COUNTY COUNSEL
 70 West Hedding, East Wing, 9th Floor
 San Jose, California 95110-1770
 Telephone: (408) 299-5900
 Facsimile: (408) 292-7240

Attorneys for Defendants
 SHERIFF LAURIE SMITH and
 COUNTY OF SANTA CLARA

UNITED STATES DISTRICT COURT
 FOR THE NORTHER DISTRICT OF CALIFORNIA
 (San Francisco)

TOM SCOCCA, MADISON SOCIETY,) INC., and THE CALGUNS) FOUNDATION, INC.,)) Plaintiffs,)) v.)) SHERIFF LAURIE SMITH (In her) individual and official capacity.),) COUNTY OF SANTA CLARA, and) DOES 1 to 20,)) Defendants.) _____)	No. CV11-01318 EMC JOINT CASE MANAGEMENT CONFERENCE STATEMENT
---	--

The parties submit this Joint Case Management Conference Statement pursuant to the Court's October 5, 2011 Reassignment Order.

1. Jurisdiction and Service

Plaintiffs Tom Scocca, Madison Society, Inc., and Calguns Foundations, Inc. filed the Complaint in this action on March 18, 2011, alleging violations of 42 U.S.C. § 1983 and California Civil Code section 52.3. Plaintiffs have served Defendants County of Santa Clara and Sheriff Laurie Smith.

2. Factual Background

Plaintiff Tom Scocca alleges that he is a resident of Santa Clara County and that he

1 applied for a permit to carry a concealed firearm but that Defendant Sheriff Laurie Smith denied
 2 his application. Scocca alleges that he met all of the requirements under California Penal Code
 3 section 12050, *et seq.*, to receive a permit to carry a concealed weapon and was similarly
 4 situated to other applicants who were granted such permits by the Sheriff. Scocca contends that
 5 the Sheriff administers the statutes in a way that violates his equal protection rights as
 6 guaranteed by the Fourteenth Amendment to the United States Constitution and by Article I,
 7 section 7 of the California Constitution. He sues the Sheriff and County for alleged violations
 8 of 42 U.S.C. § 1983 and California Civil Code section 52.3.

9 Plaintiff Madison Society, Inc., alleges it is a membership organization whose purpose is
 10 to preserve and protect the legal and constitutional right to bear arms for its members and law-
 11 abiding citizens. Plaintiff Calguns Foundation, Inc., alleges it is a non-profit organization that
 12 seeks to promote education for all stakeholders about firearm laws and to defend the civil rights
 13 of California gun owners. These two organizations bring the same causes of action as Scocca
 14 on behalf of themselves and their supporters.

15 3. Legal Issues

16 The parties dispute whether the Sheriff implements the statutes that govern the carrying of
 17 concealed firearms, California Penal Code § 12050, *et seq.*, in an unconstitutional manner.

18 4. Motions

19 The County has filed a motion to dismiss the Complaint on several grounds: (1) that
 20 Scocca cannot establish that he suffered a constitutional deprivation; (2) that the organizations
 21 do not have standing to sue; and (3) that Plaintiffs' second claim for violation of California
 22 Civil Code section 52.3 should be dismissed because there is no private right of action to
 23 enforce the statute; only the Attorney General may bring a claim pursuant to the statute. The
 24 motion is set for hearing on December 2, 2011.

25 5. Amendment of Pleadings

26 Given the pending motion to dismiss, it is unclear at this time whether Plaintiffs will
 27 amend the Complaint.

28 //

1 6. Evidence Preservation

2 The parties have taken steps to preserve evidence relevant to the issues reasonably
3 evidence in this action.

4 7. Disclosures

5 The parties have not yet exchanged initial disclosures.

6 8. Discovery

7 The parties have not yet commenced discovery given the pending motion to dismiss.

8 9. Class Actions

9 This is not a class action.

10 10. Related Cases

11 There are no known related cases pending before another judge of this Court.

12 11. Relief

13 Plaintiffs seek compensatory damages, costs, attorney's fees, injunctive, and declaratory
14 relief.

15 12. Settlement and ADR

16 The parties agree to defer scheduling ADR until after the Court rules on the pending
17 motion to dismiss.

18 13. Consent to Magistrate Judge

19 Defendants have declined to proceed before a Magistrate Judge.

20 14. Other References

21 This case is not suitable for reference to binding arbitration, a special master, or the
22 Judicial Panel on Multidistrict Litigation.

23 15. Narrowing of Issues

24 The issues in this case may be narrowed by the motion to dismiss and/or by a motion for
25 summary judgment.

26 16. Expedited Schedule

27 It is unclear whether this is the type of case that can be handled on an expedited basis.
28 Depending on the outcome of the pending motion to dismiss, Defendants may wish to file a

motion for summary judgment after completion of discovery.

17. Scheduling

Last Day to Amend Complaint	January 6, 2012
Fact Discovery Cutoff	August 31, 2012
Hearing on Dispositive Motions	September 28, 2012
Expert Discovery Cutoff	December 14, 2012
Pretrial Conference	January 15, 2013
Trial	January 28, 2013

18. Trial

The parties have requested a jury trial and expect the trial to last for 5 to 7 days.

19. Disclosure of Non-party Interested Entities or Persons

This rule does not apply to Defendants.

I hereby attest that I have on file all holograph signatures for any signatures indicated by a “conformed” signature (/S/) within this efiled document.

MIGUEL MÁRQUEZ
County Counsel

Dated: October 13, 2013

By: /S/
MELISSA R. KINIYALOCKS
Deputy County Counsel

Attorneys for Defendants
SHERIFF LAURIE SMITH and
COUNTY OF SANTA CLARA

LAW OFFICES OF DONALD KILMER

Dated: October 13, 2013

By: /S/
DONALD E.J. KILMER, JR., ESQ.

Attorneys for Plaintiffs

482862.wpd